IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 373 OF 2003

IN

SUMMARY SUIT NO.897 OF 2003

Valerian D'Souza ... Plaintiff

versus

Dr.Avinash Kerkar ....Defendant

...

Mr.D.M. Menzes for the plaintiff.

Mr.D.T. Palekar i.b Lambay & Co. for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 12th January 2005.

P.C.:

1. Heard the learned counsel for the plaintiff and the defendant.

2. The learned counsel for the defendants admits that Summons for Judgement was served on the defendant in the year 2003. Despite long lapse of time, the defendant has neither filed an affidavit in reply nor filed any application for leave to defend.

In the circumstances, the plaintiff is entitled to a decree under clause (a) of sub rule(6) of Rule 3 of Order 37 of the Code of Civil Procedure r/w Rule 221 of the Bombay High Court (Original Side) Rules.

3. The defendant only prays for instalments. The plaintiff has no objection for granting reasonable instalments. In the circumstances, Summons for Judgement is made absolute and the suit of the plaintiff is decreed as follows:-

4. The defendant shall pay to the plaintiff a sum of Rs.1,20,000/- together with interest on the principal sum of Rs.90,000/- @ 12% from the date of the suit till payment and all costs of the suit. The defendant is permitted to pay the decretal dues by monthly instalments of Rs.15,000/-. The first instalment to be paid on or before 10th February 2005 and each subsequent instalment to be paid on or before 10th of each subsequent British calendar month. The last instalment shall be of the entire balance due. In case of any two defaults, the plaintiff shall be entitled to execute the decree forthwith.

5. Drawn up of a decree is expedited.

D.G. KARNIK, J